

House Engrossed Senate Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

**CHAPTER 184
SENATE BILL 1004**

AN ACT

AMENDING SECTIONS 41-3801, 41-3803 AND 41-3804, ARIZONA REVISED STATUTES;
RELATING TO HUMAN RIGHTS COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-3801, Arizona Revised Statutes, is amended to
3 read:

4 41-3801. Human rights committee on persons with developmental
5 disabilities

6 A. The human rights committee on persons with developmental
7 disabilities is established in the department of economic security to
8 promote the rights of clients who are receiving developmental disabilities
9 services from the department pursuant to title 36, chapter 5.1.

10 B. The committee shall be organized pursuant to this section and
11 the requirements of section 41-3804.

12 C. The director of the department of economic security may
13 establish additional committees for each district office established
14 pursuant to section 41-1961 or to oversee the activities of any service
15 provider.

16 D. Each human rights committee established pursuant to this section
17 shall consist of at least seven and not more than fifteen members
18 appointed by the director of the department of economic security with
19 expertise in at least one of the following areas:

- 20 1. Psychology.
- 21 2. Law.
- 22 3. Medicine.
- 23 4. Education.
- 24 5. Special education.
- 25 6. Social work.
- 26 7. Criminal justice.

27 E. Each human rights committee shall include at least two parents
28 of children who receive services from the division of developmental
29 disabilities.

30 F. THE DIVISION OF DEVELOPMENTAL DISABILITIES SHALL PROVIDE TO EACH
31 HUMAN RIGHTS COMMITTEE INFORMATION REGARDING INCIDENTS OF:

- 32 1. POSSIBLE ABUSE OR NEGLECT OR VIOLATIONS OF RIGHTS.
- 33 2. PHYSICAL ABUSE, SEXUAL ABUSE AND OTHER ABUSE.
- 34 3. ACCIDENTAL INJURY.
- 35 4. MISSING CLIENTS.
- 36 5. BEHAVIORAL EMERGENCY MEASURES.
- 37 6. MEDICATION ERRORS, INCLUDING THEFT OF MEDICATION OR MISSING
38 MEDICATION.
- 39 7. DEATH.
- 40 8. SUICIDE ATTEMPTS.
- 41 9. HOSPITALIZATIONS.
- 42 10. INCARCERATIONS.
- 43 11. THEFT OF CLIENT PROPERTY OR MONEY.
- 44 12. PROPERTY DESTRUCTION.

1 Sec. 2. Section 41-3803, Arizona Revised Statutes, is amended to
2 read:

3 41-3803. Human rights committee on the mentally ill; training
4 plan

5 A. The human rights committee on the mentally ill is established in
6 the Arizona health care cost containment system to promote the rights of
7 persons who receive behavioral health services pursuant to title 36,
8 chapters 5 and 34.

9 B. Each region of ~~the~~ THIS state covered by a regional behavioral
10 health authority shall have at least one human rights committee with the
11 authority and responsibilities as prescribed by the Arizona health care
12 cost containment system administration pursuant to rules adopted by the
13 administration relating to behavioral health services.

14 C. The director of the Arizona health care cost containment system
15 administration may establish additional committees to serve persons who
16 receive behavioral health services or to oversee the activities of any
17 service provider.

18 D. Each committee established pursuant to this section shall
19 consist of at least seven and not more than fifteen members appointed by
20 the director of the Arizona health care cost containment system
21 administration with expertise in at least one of the following areas:

- 22 1. Psychology.
- 23 2. Law.
- 24 3. Medicine.
- 25 4. Education.
- 26 5. Special education.
- 27 6. Social work.
- 28 7. Mental health.
- 29 8. Housing for the mentally ill.
- 30 9. CRIMINAL JUSTICE.
- 31 10. PUBLIC SAFETY.

32 E. Each human rights committee, if appropriate, shall include at
33 least two parents of children who receive behavioral health services
34 pursuant to title 36, chapter 34.

35 F. Each human rights committee shall include at least one member
36 who is a current or former client of the behavioral health system.

37 G. Current or former providers or employees of providers that have
38 contracted with a regional behavioral health authority may serve on a
39 human rights committee.

40 H. EACH HUMAN RIGHTS COMMITTEE MAY HOLD ONE OR MORE COMMUNITY
41 FORUMS ANNUALLY TO RECEIVE COMMENTS REGARDING THE EXPERIENCES OF
42 INDIVIDUALS LIVING WITH SERIOUS MENTAL ILLNESS, AND THEIR FAMILY MEMBERS
43 AND CAREGIVERS, ACROSS THE CARE CONTINUUM.

44 ~~H.~~ I. The ~~department of health services~~ ARIZONA HEALTH CARE COST
45 CONTAINMENT SYSTEM ADMINISTRATION shall ensure that each regional

1 behavioral health authority and its providers develop and implement a
2 human rights training plan to ensure that providers are trained regarding
3 clients' human rights and the duties of the human rights committees.

4 ~~I.~~ J. Each committee shall be organized pursuant to this section
5 and the requirements of section 41-3804.

6 Sec. 3. Section 41-3804, Arizona Revised Statutes, is amended to
7 read:

8 41-3804. Human rights committees; membership; duties; client
9 information; immunity; violation; classification

10 A. Subject to the approval of the appropriate department director,
11 each committee established pursuant to this article shall adopt guidelines
12 that govern its operation, including terms of members, quorum and
13 attendance requirements and removal of a committee member if necessary.
14 Each committee shall adopt these guidelines by majority vote within the
15 first three months of its formation. These guidelines shall not conflict
16 with this article. The director of the appropriate department shall
17 approve the guidelines unless they are inconsistent with the department's
18 statutes, policies, procedures or rules, or if the guidelines do not
19 promote participation by all interested members of the community that the
20 committee serves. In addition to the procedures in the guidelines, each
21 human rights committee must approve the removal of any committee member on
22 majority vote of the committee. THE APPROPRIATE DEPARTMENT DIRECTOR SHALL
23 PROVIDE COMMITTEE MEMBERS THE OPPORTUNITY TO REVIEW POTENTIAL CHANGES TO
24 RULES OR POLICIES THAT AFFECT THE COMMITTEE.

25 B. Employees of the department of economic security, the department
26 of child safety, the Arizona health care cost containment system and the
27 Arizona health care cost containment system administration AND
28 SUBJECT-MATTER EXPERTS may serve on a committee only as nonvoting members
29 whose presence is not counted for the purpose of determining a quorum.

30 C. Advocacy groups, local advisory councils, committee members and
31 the director of the appropriate department may submit names of candidates
32 to fill committee vacancies. The appropriate director shall appoint a
33 person to fill a vacancy subject to the approval of the committee.

34 D. Each committee shall meet at least quarterly each calendar year.

35 E. Each committee shall provide independent oversight to:

36 1. Ensure that the rights of clients are protected.

37 2. Review incidents of possible abuse, neglect or denial of a
38 client's rights.

39 3. Make recommendations to the appropriate department director and
40 the legislature regarding laws, rules, policies, procedures and practices
41 to ensure the protection of the rights of clients receiving behavioral
42 health and developmental disability services.

43 F. Each committee shall submit written objections to specific
44 problems or violations of client rights by department employees or service
45 providers to the director of the appropriate department for review. The

1 appropriate department director shall respond, in writing, to written
2 objections within twenty-one days after receiving the objections.

3 G. Each committee shall issue an annual report of its activities
4 and recommendations for changes to the director of the appropriate
5 department, the president of the senate, the speaker of the house of
6 representatives and the chairpersons of the senate health and human
7 services committee and the house of representatives health committee, or
8 their successor committees.

9 H. A committee may request from the appropriate department the
10 services of a consultant or department employee to advise it on specific
11 issues. The consultant may be a member of another human rights committee,
12 a department employee or a service provider. Subject to the availability
13 of monies, the appropriate department shall assume the cost of the
14 consultant. A consultant shall not participate in committee votes.

15 I. Subject to federal law, committee members and consultants have
16 access to client information and records, including quality of care
17 reports and, on request, case presentations, adult protective services
18 investigation case status and outcomes, substantiations, recommendations
19 and other quality of care findings from peer reviews or any successor
20 report or process, maintained by the appropriate department, provider or
21 regional behavioral health authorities to the extent necessary to conduct
22 committee duties. Each person who receives information or records
23 pursuant to this subsection shall maintain the information or records as
24 confidential and sign an agreement to comply with all confidentiality
25 requirements. Any client information or records shall be released to the
26 committee without the designation of personally identifiable information
27 unless the personally identifiable information is required for the
28 official purposes of the committee. A violation of this subsection is a
29 class 2 misdemeanor. For the purposes of this subsection, "personally
30 identifiable information" includes a person's name, address, date of
31 birth, social security number, tribal enrollment number, telephone or fax
32 number, e-mail address, social media identifier, driver license number,
33 places of employment, school identification or military identification
34 number or any other distinguishing characteristic that tends to identify a
35 particular person.

36 J. If a committee's request for information or records from a
37 department is denied, the committee may request in writing that the
38 director of the appropriate department review this decision. The agency
39 director or designee shall conduct the review within five business days
40 after receiving the request for review. The agency shall bear the costs
41 of conducting the review. A final agency decision made pursuant to this
42 subsection is subject to judicial review pursuant to title 12, chapter 7,
43 article 6. The agency shall not release any information or records during
44 the period an appeal may be filed or is pending.

1 K. Confidential records and information received by the committee
2 or its consultant are subject to the same provisions concerning subpoenas,
3 discovery and use in legal actions as are the original records and
4 information.

5 L. The human rights committees may exchange information and engage
6 in planning and coordination activities between committee members in the
7 performance of committee duties pursuant to this section.

8 M. The human rights committees may encourage public awareness and
9 involvement in their activities by supporting committee members with
10 affiliation agreements with postsecondary education-sponsored internship
11 placements pursuant to the appropriate department's approved operating
12 procedures.

13 N. The appropriate departments shall coordinate education and
14 training programs for committee members to facilitate their role as human
15 rights committee members. The appropriate departments shall coordinate
16 statewide meetings of committees at least every two years and provide
17 staff for the committees.

18 O. Any person who, in good faith and without malice and in
19 connection with duties or functions of a committee established pursuant to
20 this article, takes an action or makes a decision or recommendation as a
21 member or agent of a committee or who furnishes records, information or
22 assistance that is related to the duties of a committee is not subject to
23 liability for civil damages in consequence of that action. The court
24 shall determine the presence of malice by clear and convincing evidence.

25 P. Title 38, chapter 3, article 8, relating to conflict of
26 interest, applies to all committee members.

APPROVED BY THE GOVERNOR APRIL 24, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2017.

Passed the House April 17, 2017,

by the following vote: 56 Ayes,

1 Nays, 2 Not Voting

12. Day 2 1 vacant
Speaker of the House
Pro Tempore

Jim Drake
Chief Clerk of the House

Passed the Senate March 9, 2017,

by the following vote: 28 Ayes,

2 Nays, 2 Not Voting

Steve R. Marking
President of the Senate

Susan Owens
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1004

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

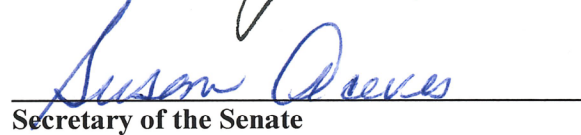
SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 20, 20 17

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting


President of the Senate

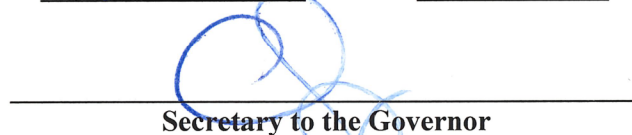

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20th day of April, 20 17

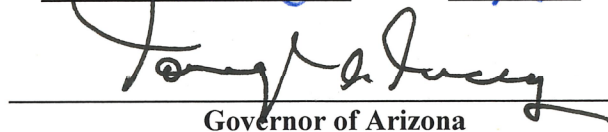
at 12:14 o'clock P. M.


Secretary to the Governor

Approved this 24th day of

April, 2017

at 10:18 o'clock A. M.

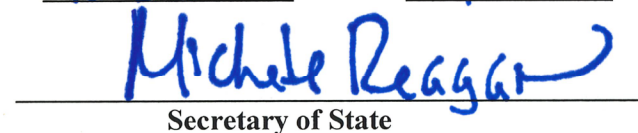

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of April, 20 17

at 12:26 o'clock P M.


Secretary of State